

# Calculating fixed penalty charges: The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

The Regulations require a statement of principles to be followed in order to determine the amount of a penalty charge.

The following principles were considered:

1. That the Regulations would not have allowed a maximum fine of £5000 had it not been envisaged that this is the amount considered fair for Councils to levy.
2. That the cost of the remedy will be relatively low in most cases and that the amount of the penalty charge should reflect a disregard of the duty to remove the risk to life arising from a domestic fire.
3. In calculating the amount of the penalty charge it would be fair to work on the perceived average costs involved within the District.
4. It is necessary to fix and publish the charge that could be expected to be paid so that there is forewarning of the consequences of committing an offence.
5. A reduction to the amount of the penalty charge will be made where the amount is paid before remedial works have to be undertaken and/or where a Court Order does not have to be applied for to recover payment.

The amount of a penalty charge will comprise the following elements:

1. An amount for the average length of time it will take officers of the Council to:
  - Determine that the standard of the Regulations have been contravened
  - Prepare and send a remedial notice to the landlord
  - Arrange for remedial action if the landlord has not complied with the remedial notice
  - Serve a penalty charge notice if the landlord has not complied with the remedial notice
  - Facilitate an appeal against the penalty charge notice
  - Process the payment of the penalty charge amount
  - Recover the penalty charge via a Court Order if the landlord does not pay voluntarily

2. A level of fine that the offence might attract as though the case had gone before the Magistrates.

Determine that the standard of the Regulations have been contravened:

Task	Officer	Rater per hr	Time	Cost
Average travel time to visit house	PHSO	£22.00	60 mins	£22.00
Average time to verify breach of Regulations	PHSO	£22.00	15 mins	£5.00
Average time to record notes to computer system	PHSO	£22.00	30 mins	£11.00

**Total: £38.50**

Prepare and send a remedial notice to the landlord:

Task	Officer	Rate per hr	Time	Cost
Verify landlord's details	PHSO	£22.00	30 mins	£11.00
Administer Notice	PHSO	£22.00	1 hour	£22.00

**Total: £33.00**

Arrange a remedial action if the landlord has not complied with the remedial notice:

Task	Officer	Rate per hr	Time	Cost
Confirm tenant wishes remediation	PHSO	£22.00	15 mins	£5.50
Instruct authorised person remediate	PHSO	£22.00	15 mins	£5.50
Verify work has been done	PHSO	£22.00	60 mins	£22.00
Process payment to Finance	Admin	£11.00	30 mins	£5.50
Administration by Finance Department	n/a	£11.00	30 mins	£5.50

**Total: £44.00**

Serve a penalty charge notice if the landlord has not complied with the remedial notice:

Task	Officer	Rate per hr	Time	Cost
Confirm notice's non-compliance	PHSO	£22.00	60 mins	£22.00
Issue Notice and cover letter	PHSO	£22.00	2 hours	£44.00

**Total: £66.00**

Facilitate an appeal against the penalty charge notice:

Task	Officer	Rate per hr	Time	Cost
Correspond with appellant	PHSO	£22.00	1hr	£22.00
Prepare papers	PHSO	£22.00	3hrs	£66.00
Hear the appeal	CIr (s)	£22.00	1hr	£22.00

**Total: £110.00**

**Sub-total: £291.50**

Note: PHSO and Admin hourly rates(£) based on SCP16 plus 25% on-costs, rounded to nearest £.

Private Sector Housing Research – Prosecuting Landlords for Poor Property Conditions: Research findings on the resources and timescales for councils in prosecuting private landlords in cases of poor property conditions, and the level of fines awarded in court: Local Government Association 2014

Task	Fine	Council's stated costs	Costs awarded	Was this amount requested?	PSH team costs	Legal team costs	Council's stated costs	Shortfall
11 contraventions HMO management regulations	£2,600	£6,438	£1,995	Yes	£1,995	£5,443	£1,995	£5443
Failure to comply with an improvement notice regarding nine health hazards	£3,000	£2,190	£2,190	Yes	£1,765	£425	£2,190	N/A
Three breaches of HMO management regulations	£5,000	£1,363	£1,363	Yes	£1,038	£325	£1,363	N/A
5 contraventions of HMO management regulations	£1,210	£3,238	£3,238	Yes	£1,090	£2,148	£3,238	N/A
Failure to comply with improvement notice	£100	£787	£787	Yes	£451	£336	£787	N/A
Failure to comply with an improvement notice	£1,000	£3,000	£1,000	33%	£1,376	£1,624	£3,000	£2,000
<b>Average</b>	<b>£2151.25</b>	N/A	<b>£1,893</b>	N/A	<b>£1,094</b>	<b>£1,158</b>	<b>£2,252</b>	N/A

Outcome of research:

Suggest first offence fine of £1,291.50 (based on costs plus £1,000 fine)

2<sup>nd</sup> offence fine of £2,291.50 (based on costs plus £2,000 fine)

Fines increasing by £1000 for each subsequent offence up to the maximum allowed of £5,000.